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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,727	04/05/2001	R. Dennis Nesbitt	P-5500-CP1-D1	7714

24492 7590 05/12/2003

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EXAMINER

DEL SOLE, JOSEPH S

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 05/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/826,727

Applicant(s)

NESBITT, R. DENNIS

Examiner

Joseph S. Del Sole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 <sup>and 20-21 FP</sup> is/are pending in the application.
- 4a) Of the above claim(s) 10, 11, 20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 10-11 and 20-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement as applied to claims 10-11, and did not traverse the requirement as applied to claims 20-21, in Paper No. 6.
2. Applicant's election with traverse of claims 1-9 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that Figures 4 to 8 show the same species as Figures 9 to 11 and further that the sheeter of claim 10 is the same species as the sheeter of claim 1. This is not found persuasive because the species of Figures 4 to 8 include a species that forms sheets and then later forms golf balls. The species of Figures 9 to 10 never forms a sheet despite the structure, that includes an extruder portion and a die head portion, being called a "sheeter". Claim 1 claims "a sheeter that forms sheets" and "a preform shaping means for forming golf ball core preforms from the sheets of golf ball core stock", but the species of Figures 9-10 and claims 10-11 does not form a sheet nor reform a sheet. This is supported by the specification at page 9, line 30 through page 10, line 6 wherein it states that "the core stock is directly formed into preforms or slugs via screws 64, 66 and the die head 154"... "by replacing the roller head die60". The roller head die is needed to form a sheet as discussed at page 9, lines 18-24 of the specification.

The requirement is still deemed proper and is therefore made FINAL.

***Information Disclosure Statement***

3. The information disclosure statement filed 4/5/01 complies with the provisions of 37 CFR 1.97, 1.98 and MPEP 609. It has been placed in the application file and the information referred to therein has been considered as to its merits.

***Drawings***

4. The informal drawings filed in this application are acceptable for examination purposes. If the application is allowed, applicant will be required to submit new formal drawings.

***Specification***

5. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Sullivan et al (5,580,057).

Sullivan et al teach a processing system for forming golf ball preforms having an internal mixer that compounds a batch of golf ball core stock, the internal mixer having a mixer outlet (col 10, lines 7-12 and 20-23); a sheeter that forms sheets of golf ball core stock, the sheeter having an sheeter inlet proximate the mixer outlet and having a

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sheeter outlet (col 17, lines 20-23); preform shaping means for forming golf ball core preforms from the sheets of golf ball core stock (col 17, lines 24-25); an extruder that forms golf ball core preforms of a desired shape from the sheets of golf ball core stock (col 17, lines 24-25, Sullivan cites a Barwell <sup>preformer</sup> ~~performer~~, which is an extruder well known in the molding art); and means for rolling the sheets of golf ball core stock into "pigs" prior to being extruded into the golf ball core preforms (col 17, lines 24-25).

**Claim Rejections - 35 USC § 103**

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al (5,580,057) in view of Hamada et al (4,859,166).

Sullivan et al teach the apparatus as discussed above.

Sullivan et al fail to explicitly teach the sheeter including an extruder portion and a calendar portion, the extruder portion having two screws that feed the compounded

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stock to the calendar portion, the calendar portion having a first roller and a second roller that is upwardly displaced from the first roller to define a nip point where the sheets of stock are formed from the compounded stock.

Hamada et al teach an extruder (Fig 1, #1) having two screws (Fig 2, #2) that feed compounded stock to a calendar (Fig 1, #11) having a first roller (Fig 1, #12) and a second roller (Fig 1, #12) that is upwardly displaced from the first roller to define a nip point for the purpose of forming rubber or elastomeric sheets (the same material molded by Sullivan et al) with a small energy expenditure (col 2, lines 5-15).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Sullivan et al by using as the sheeter an extruder having two screws that feed compounded stock to a calendar having a first and second roller, one displaced upwardly from the other to define a nip point as taught by Hamada et al because it enables sheets to be formed with small energy expenditure, which minimizes the cost of operation.

11. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al (5,580,057) in view of Hamada et al (4,859,166) and further in view of Miller et al (4,065,537).

Sullivan et al and Hamada et al teach the apparatus as discussed above. Additionally, Sullivan et al teach rolling sheets into pigs prior to being extruded into ball preforms (col 17, lines 24-25).

Sullivan et al fail to teach a warm-up mill for warming the sheets of stock; a cool down unit for cooling the sheets of stock prior to being warmed by a warm-up mill; and

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the warm-up mill combines the first-mentioned stock with a second batch of stock to form warmed sheets of stock.

Miller et al teach warming a sheet stock material on a warm-up mill before using an extruder for forming ball preforms from the warmed sheets (col 8, lines 1-8) and first cooling the sheets of stock prior to being warmed by the warm-up mill (col 8, lines 9-19 and example 6, which shows the stock material milled at a higher temperature than it is extruded); and the warm-up mill combines a first stock with a second batch of stock to form a composite sheet (col 7, lines 7-37) for the purpose of processing the stock at a higher temperature and producing the preforms of various stocks.

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Sullivan et al with a warm-up mill following a cool down unit as taught by Miller et al because processing at a higher temperature reduces the amount of orientation in a stock sheet (col 7, lines 33-37) and to have modified Sullivan et al with a warm-up mill that combines two stocks to form a warm composite sheet as taught by Miller et al because preforms made of various stocks reduces the amount of orientation in the preform (col 7, lines 17-32).

### ***References of Interest***

12. Hagiwara et al (4,304,539), Kemerer et al (5,244,618), and Abe (5,855,830) are cited of interest to show the state of the art.

### ***Correspondence***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Del Sole whose telephone number is (703) 308-6295. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wanda Walker, can be reached at (703) 308-0457. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 for non-after finals and (703) 872-9311 for after finals.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

J.S.D.  
May 6, 2003

  
ROBERT DAVIS  
PRIMARY EXAMINER  
GROUP 1300, 722  
5/8/03